

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

WISCONSIN RESOURCES
PROTECTION COUNCIL, CENTER
FOR BIOLOGICAL DIVERSITY,
AND LAURA GAUGER,

Plaintiffs,

Case No. 11-cv-45

v.

FLAMBEAU MINING COMPANY,
Defendant.

**DEFENDANT FLAMBEAU MINING COMPANY'S
MOTION TO STRIKE THE DECLARATION OF
HAROLD FLATER FROM THE RECORD**

PLEASE TAKE NOTICE that Defendant, Flambeau Mining Company ("FMC"), by its attorneys, DeWitt Ross & Stevens S.C., respectfully moves the Court to strike the Declaration of Harold Flater ("Flater"), (D.E. No. 44), from the record.

In support of this Motion, FMC states that, Plaintiffs Wisconsin Resources Protection Council, Center for Biological Diversity, and Laura Gauger (hereinafter collectively referred to as "Plaintiffs"), submitted Flater's Declaration in support of their summary judgment pleadings. However, FMC recently discovered at Flater's April 26, 2012 deposition that Flater's personal knowledge does not serve as the basis for such Declaration. Rather, the Declaration is based on hearsay as well as misleading and unsupported sworn statements.

This Motion is supported by the accompanying Defendant's Brief in Support of Motion to Strike the Declaration of Harold Flater from the Record, and the April 26, 2012 Deposition of Harold H. Flater (D.E. No. 188).

WHEREFORE, Defendant, FMC, respectfully requests that the Court strike the Flater Declaration (D.E. No. 44), from the record in this case.

Respectfully submitted this 8th day of May, 2012.

DEWITT ROSS & STEVENS S.C.

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